

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN RE	*	CASE NO. 11-02111 BKT
	*	
CESAR ALBERTO CLAUDIO ALICEA	*	CHAPTER 13
	*	
DEBTOR	*	

**DEBTOR'S MOTION REQUESTING ORDER OF DISMISSAL
BE SET ASIDE/RECONSIDERATION DOCKET NO. 18**

TO THE HONORABLE COURT:

COMES NOW, CESAR ALBERTO CLAUDIO ALICEA, debtor in the above captioned case, through the undersigned attorney, and very respectfully states and prays as follows:

1. On June 9, 2011, the Court issued an *Order Dismissing Case*, docket no. 18, whereby the above captioned case was dismissed, based on an unopposed Trustee's motion to dismiss for debtor's failure to make certain amendment to schedules and submit certain documents requested by the Trustee at the 341 meeting of creditors. *Trustee's Motion to Dismiss*, filed on May 2, 2011, docket no. 11.

2. The debtor hereby respectfully submits that the 341 meeting of creditors was held on April 13, 2011. The Trustee requested the debtor to file amendments to Schedules "A", "B " and "I ", and submit documents related to sustain the market value of a real property in which the debtor has an inheritance interest and submit evidence of payment of health insurance for debtor's son.

3. On May 10, 2011 the debtor filed amendments to Schedules "B", docket no. 12, and Schedule "I ", docket no. 13.

4. The debtor respectfully submits that he is in the process of producing the requested documents and/or information and file the appropriate pending amendment to Schedule "A". Due to an oversight, an extension of time to submit the requested documents and/or file the pending schedule amendment as stated in the Trustee's motion to dismiss, was not timely filed with the Court.

5. It is to be noted that the debtor is making current payments to the Trustee and is up-to-date in his proposed Plan payments. Furthermore, the Court has scheduled a confirmation hearing for August 18, 2011, which allows the debtor sufficient time to comply with the Trustee's requirements.

6. The debtor respectfully submits that he responsibly appeared at the original 341 meeting of creditors, that he is current in his Plan payments, that he did file certain amendments as requested by the Trustee at the 341 meeting of creditors and is in the process of obtaining further information and/or documents to submit the same to the Trustee.

7. The debtor respectfully submits that the failure to reply to the Trustee's motion to dismiss was an oversight and/or clerical error which resulted in the dismissal of the present case.

8. This motion requesting that the order of dismissal be set aside/reconsideration is grounded on Rule 9024 of the Federal Rules of Bankruptcy Procedure, which applies Rule

60 of the Federal Rules of Civil Procedure.

9. Under Rule 60 (b) (1) and (6), within a reasonable time, a debtor may request the Court to relieve him from a final order for the following reasons: mistake, inadvertence, surprise, or excusable neglect and/or for any other reason justifying relief from the operation of the judgment. Rule 60 (b) (1) and (6) of the Federal Rules of Civil Procedure.

10. The debtor respectfully submits that he inadvertently failed to reply to the Trustee's motion to dismiss, that he is in the process of submitting to the Trustee the requested documents and/or file the appropriate amendment within the next thirty (30) days. The debtor prays that the Court allow him to continue making the Plan payments to the Trustee in the present case and continue under the protection of the Bankruptcy Court .

11. The debtor prays the Court to re-open and set aside the *Order* dismissing the present case, dated June 9, 2011, docket no. 18, allowing the debtor to continue under the protection of the Bankruptcy Court.

WHEREFORE, debtor respectfully requests this Honorable Court grant this motion and set aside/reconsider the June 9, 2011, *Order Dismissing Case* (docket no. 18) entered in the above captioned case.

NOTICE: Within thirty (30) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action that objects to the relief sought herein shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may

be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

I **CERTIFY** that on this same date a copy of this motion was filed with the Clerk of the Court using the CM/ECF filing system which will send notification of this motion to: Alejandro Oliveras Rivera, Esq., Chapter 13 Trustee; and that a copy of the same has been sent via US Mail to the debtor Cesar Alberto Claudio Alicea, Verde Mar 731 Calle 28 Punta Santiago PR 00741; and to all creditors and parties in interest appearing in the Master Address List, hereby attached.

RESPECTFULLY SUBMITTED, in San Juan, Puerto Rico, this 10th day of June, 2011.

/s/ Roberto Figueroa Carrasquillo
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